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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,147

06/27/2003

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35041/400100

1146

27717 7590 08/18/2010
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EXAMINER

CARLSON, JEFFREY D

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

08/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/604,147
Filing Date: June 27, 2003
Appellant(s): MONTEVERDE, DANTE

Joseph P. Quinn
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/1/2010 appealing from the Office action mailed 11/12/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1, 3, 5-15, 17-23

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action

from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US 2002/0111172	DeWOLF et al	8-2002
US 6,516,337	TRIPP et al	2-2003
US 2003/0009762	HOOPER et al	1-2003
US 2003/0065805	BARNES, JR	4-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 5, 9-10, 14-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al (US 20020111172 A1) in view of Tripp et al (US6516337).

Regarding claims 1, 3, 5, 14-15, 17-18, DeWolf et al teaches location-based advertising provided to a user based on a profile that includes location history data. Paragraph 0087 states that the location profile can at least in part be built upon your history of Internet browsing and the geographic location of businesses/sites that you have visited on the Internet. Recognizing that the user has "visited numerous websites related to the "Outer

Banks” (in North Carolina), the system can take this “external data” and use it in an estimation/determination of the location of a user as well form as a basis for delivering advertising for merchants/services relevant to that determined geographic location. Delivering location-based advertising (Outer Banks advertising) according to a common geographic location associated with numerous Outer Banks web visits indicates that the Outer Banks is a popular geographic location for that user. DeWolf et al does not describe the details of how a business location can be determined for a visited web page. Tripp et al teaches what is typical of search engines – a database or index is created which correlates web page URLs to a categorization of that webpage. This predefined database can then be used to retrieve the stored categorization of any web page stored in the database/index [fig 1, col 2: lines 40-49]. Tripp et al also recognizes a need for this index database to store categorization metadata that includes a location for the web site. Tripp et al provides a geographic location component to the stored index database [fig 21]. It would have been obvious to one of ordinary skill at the time of the invention to have stored such an index database for use by DeWolf et al so that the geographic location of web pages can be determined accurately and quickly. The matching of a determined/estimated/predicted geographic location to pre-stored advertisements is inherently accomplished by storage of merchant locations in a database which is used to match to the stored user profiles, thereby providing advertising relevant to the determined user location, thereby providing the location-based targeted advertising desired by DeWolf et al.

Regarding claims 9-10, tracking locations related to websites visited will result in a plurality of potential user locations. DeWolf et al does not mention other popular locations estimated for the user (say if the user has also been searching businesses web pages located in Florida). One of ordinary skill however would find it would have been obvious to

one of ordinary skill at the time of the invention to have to have chosen an estimated location for a user based on web page geographic locations that represent the strongest (or most popular) correlations to web pages visited. Doing so would be a predictable way to estimate the best chance at obtaining an accurate user-location as a user would tend to visit pages most relevant to his location.

Claims 6-8, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Tripp et al and Hooper et al (US 20030009762 A1).

Hooper et al also teaches providing customized advertising displays for users based upon their profiles. The profiles are created based upon various factors including demographics, residence location as well as Internet sites visited and the amount of time spent on each web site. It would have therefore been obvious to one of ordinary skill at the time of the invention to have also included time spent on visited web pages as a factor in determining user profiles which serve as the basis for the targeted ads of DeWolf et al. Official Notice is taken that it is well known to provide identification of Internet users by way of writing and reading cookies and matching to user account databases and would have been obvious to have done with the identified/tracked users of DeWolf et al.

Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Tripp et al and Barnes, Jr. (US 20030065805 A1).

Barnes, Jr. also teaches location-based advertising but also includes advertisers bidding on desired targeting criteria in order to have their ads included with search results for a user who has performed an Internet search [¶ 238]. It would have been obvious to one of

ordinary skill at the time of the invention to have provided these features with that of DeWolf et al in order to enable ads on search pages.

(10) Response to Argument

Applicant argues that DeWolf uses GPS to determine a user's location. This is true, but DeWolf also uses "external data" such as a history of Internet browsing in order to determine location-specific advertising relevant to a user's location.

Applicant argues that DeWolf's location profile is "very different in purpose and content" from applicant's claimed "user's geographic location". The purpose of DeWolf's location profile seems precisely aligned with applicant's purpose – to serve location-specific advertisements to users according to user locations.

Applicant argues that DeWolf *predicts* the location of a user, whereas the instant invention *estimates* the location of a user. Examiner sees very little if any distinction between the two – especially given the claim language which does not distinguish present location from future location. DeWolf could be said to estimate (or determine) the (current) location of a user. Regardless, applicant's "estimation" is as much of a guess as DeWolf's external data (noticing the types of websites the user has been visiting). Applicant has no way of knowing that the sites visited by HIS users are users planning vacations or whether the user lives in the area or whether the user is even currently located in that area. Applicant takes a Internet-based location and targets a location-specific advertisement; DeWolf takes a Internet-based location and targets a location-specific advertisement. The reasoning "why" the applicant thinks the advertising will be effective: *guessing* that the user is in the area – is not patentably distinct from DeWolf in view of Tripp, even if DeWolf is *guessing* that the use will soon be in the area (i.e. soon be in the Outer Banks, NC).

Applicant states "DeWolf's location profile can indeed at least in part be built on a history of Internet browsing", but argues that the geographic locations of sites that you have visited on the Internet are not used. However DeWolf's teaching to choose advertisements according to such a location profile developed because a user has "visited numerous web sites related the Outer Banks" is taken to indicate that geographic locations (Outer Banks, NC) concerning the Internet sites is indeed present. Nonetheless it would have been obvious to one of ordinary skill at the time of the invention that offering location-specific advertisements would be predictably effective for any user that has been determined in any way to have interest in the Outer Banks location.

Applicant argues that DeWolf's targeted advertising on the basis that a user has "visited numerous web sites related the Outer Banks" does not imply that such websites have businesses locations in the Outer Banks or that such business locations are used to determine a user's location. Applicant argues that such sites might include travel agencies, weather websites, etc. Examiner believes that DeWolf fairly reads on the claims because it would also be likely that such visited internet sites would include locally-run businesses, such a real estate office located in the Outer Banks that rents beach homes in the outer banks. Further, even a website of a business that serves content about the Outer Banks can be said to include a "business geographic location" of the Outer Banks on the basis that their business activities are tied to and include the Outer Banks as part of their territory. Further even a travel agent outside of North Carolina can be said to be "adjacent" to the Outer Banks.

Applicant argues that DeWolf teaches away from the claimed invention because DeWolf's location profile is compiled based on observed locations. Again, while DeWolf may use observed GPS locations, he also formulates a location-targeting profile according

to locations specific to web pages the user has visited. DeWolf's Internet-based location detecting clearly teaches toward applicant's invention, even if DeWolf also may use GPS. Applicant's claims in no way preclude the presence of or reliance on GPS observed locations.

Applicant argues that Tripp fails to provide storing the geographic location of a web page as claimed. Given the desire of DeWolf to use Internet sites as a means to determine a location profile of a user, one of ordinary skill would find it obvious that some index would be required to associate web pages with locations. Tripp is merely used as an example of a typical database that categorizes websites, and does no at least to some extent using location data.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jeffrey D. Carlson/
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